

## HOME (POLICE) DEPARTMENT

The 3rd April, 1978

No. 6302/B(SA2)(.)—*Leave*.—The Governor of Haryana was pleased to grant 21 days earned leave from 11th August, 1977 to 31st August, 1977 under rule 8.116 of the Punjab C.S.R., Vol. I, Part I, to Shri Pran Nath Seli, Deputy Superintendent of Police, 5th Bn. H. A. P. Madhuban. On the expiry of leave, he returned to the same post carrying same pay and allowances, on the forenoon of 1st September, 1977.

P. A. ROSHA, Jt. Secy.

## HARYANA RAJ BHAVAN,

The 5th April, 1978

No. HRB-EA-78/2980.—In exercise of the powers conferred by sub-clause (vi) of clause 4 of the 1st Statute, as contained in Schedule I of the Kurukshetra University Act, 1956, the Kuladhipati (Chancellor) of the Kurukshetra University is pleased to appoint Dr. Vikas Mishra, Professor and Head of the Department of Economics, Kurukshetra University, as Kulapati (Vice-Chancellor) of the said University, for a period of 3 years with immediate effect.

2. His terms and conditions of appointment will be issued separately.

G. MADHAVAN,

Secretary to Governor, Haryana and  
Chancellor, Kurukshetra University.

## HARYANA STATE LOTTERIES

The 31st March, 1978/5th April, 1978

No. DOL/HR/78/3117.—The Governor of Haryana is pleased to make the following Rules for the conduct of the 115th Draw to 117th Draw of Haryana State Lotteries, namely:—

1. These Rules may be called the Rules for the conduct of the 115th Draw to 117th Draw of Haryana State Lotteries.

2. There shall be only one Final Draw of Haryana State Lotteries to be held on Saturday the 15th April, 1978, Tuesday the 25th April, 1978 and Friday the 5th May, 1978 with the following prizes:—

1st prize	(1) Rs. 1,00,000 in cash (Common to all series)
2nd prize	(1) Rs. 10,000 in cash (Common to all series)
3rd prize	(5) Rs. 1,000 each (One prize from each series)
4th prize	(10) Rs. 500 each (Two prizes from each series)
5th prize	(2,000) Rs. 20 each (Only 5 numbers of 3 digits to be drawn from the 1st block of 1,000 tickets in each series which will be applicable to the subsequent such blocks in each respective series)

3. The Draw will be held in the presence of judges.

The 5th April, 1978

No. DOL/HR/78/3475.—The Governor of Haryana is pleased to select the following persons as Judges for the supervision of the 113th Final Draw and 114th Final Draws held on 23rd March, 1978 and 3rd April, 1978, respectively.

## 113th Final Draw on 23rd March, 1978

1. Mrs. Mohini Singh,  
w/o Ch. Partap Singh, I.A.S.,  
Deputy Commissioner,  
Bhiwani.
2. Ch. Risal Singh, H.C.S.,  
Administrator,  
Municipal Committee,  
Bhiwani.
3. Sh. Ramji Lal Saini,  
Loharu.
4. Sh. Sant Kumar,  
Secretary,  
Notified Area Committee,  
Loharu.
5. Sh. Gurdev Singh Punia,  
Block and Development Officer,  
Loharu.

## 114th Final Draw on 3rd April, 1978

1. Smt. Jaiwanti Aggarwal,  
w/o Sh. N. R. Aggarwal, H.C.S.,  
Sub-Divisional Magistrate,  
Charkhidadri.
2. Smt. Raj Arora,  
w/o Sh. S. D. Arora, H.C.S.,  
Sub-Judge,  
Charkhidadri.
3. Dr. Santosh Mittal,  
w/o Dr. R. N. Mittal,  
Senior Medical Officer,  
Charkhi Dadri.
4. Smt. Kanta Ahuja,  
w/o Sh. R. S. Ahuja,  
Executive Engineer,  
I.L.N. Division,  
Charkhi Dadri.
5. Smt. Geeta Sharma,  
w/o Sh. K. S. Sharma,  
Executive Engineer,  
P.W.D., B&R.,  
Charkhi Dadri.

L. M. JAIN, I.A.S.,  
Director of Lotteries and  
Joint Secretary to Government, Haryana,  
Finance Department, Chandigarh.

## LABOUR DEPARTMENT

The 21st March, 1978

No. 2609-3 Lab-78/1721. —In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Pincord Industries, 31-B, N.I.T., Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL, TRIBUNAL  
HARYANA, FARIDABAD

Reference No. 133 of 1976

Between

SHRI THAN SINGH WORKMAN AND THE MANAGEMENT OF M/S. PINCORD INDUSTRIES, 31-B,  
N.I.T., FARIDABAD

Present :—

Shri Ram Murti Sharma for the workman.

Shri S.S. Saini for the management.

## AWARD

By order No. ID/ED/1025-A-76/24358, dated 19th July, 1976, the Governor of Haryana, referred the following dispute between the management of M/s. Pincord Industries, 31-B, N.I.T., Faridabad and its workman Shri Than Singh, to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Than Singh was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were sent to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 17th November, 1976 :—

- (1) Whether the termination of services of the workman concerned was justified and in order ? If not, to what relief is he entitled ?
- (2) Whether the workman concerned lost his lien on the post by remaining absent for more than 10 days as per certified standing orders of the management ?
- (3) Whether the subject-matter of the reference does not constitute an industrial dispute ?
- (4) Whether the written statement has been filed by an authorised person ?

Briefly the facts of the case are that the workman gave a demand notice that the management terminated his services with effect from 22nd March, 1976 and not allowed him on duty thence forth and prayed for reinstatement with full back wages. In statement of claim the workman pleaded that he was granted leave for 27 days from 16th February, 1976 to 13th March, 1976. During leave period he fell sick and sent a medical certificate for extension of his leave. The Medical Certificate was with effect from 11th March, 1976 to 20th March, 1976. 21st March, 1976 was Sunday. On 22nd March, 1976 he went with fitness certificate to join his duty. He was told by the management that they shall take him on duty if the E.S.I. Local Office granted him benefit and the management sent their peon to the E.S.I. Local Office the same day. E.S.I. Local Office did not grant benefit then the management terminated his services with effect from 22nd March, 1976. The management in their written statement pleaded that the workman was on authorised leave from 16th February, 1976 to 13th March, 1976. He had to report on duty on 14th March, 1976 but he remained absent thereafter waiting for 10 days, the management found that the workman had lost lien on his post for remaining absent continuously for 10 days as per clause No. 18, sub-clause V of the Company Certified Standing Orders. The management further pleaded that the management neither dismissed, nor discharged, nor retrenched nor terminated the services of the workman concerned and that it was a case of loss of lien of job on the part of the workman concerned for remaining absent for 10 days.

The workman in his rejoinder repeated his averments made in his statement of claim and pleaded that 15th/16th March, 1976 was holi festival. I now give my findings issue-wise.

There are some technical objections taken by the parties on which issues Nos. 3 and 4 were framed. I, therefore, first decide issues Nos. 3 and 4.

## Issue No. 3

I have gone through the pleadings of the parties, their evidence and their arguments. It could not be brought home as to why this dispute is not an industrial dispute. I find that the dispute or the subject-matter of his reference constitute industrial dispute. I, therefore, decide issue No. 3 against the management.

## Issue No. 4

The management have placed several documents on the file of this case to support finding in their favour of this issue. Ex. M-3 is the letter by which the management appointed their representative Shri S.S. Saini to look after recruitment, maintenance of record under E.S.I., Provident Fund and Factories Act and also to deal with other labour matters including the representation of their case before Labour-cum-Conciliation Officer, Industrial Tribunal, Labour Court and also to sign, verify and file written comments, application, written statement and application for receiving and filing documents and other incidental work for defending, instituting cases on behalf of the management. Ex. M-3 is dated 1st May, 1971. Ex. M. 4 is regarding a settlement, dated 22nd July, 1970. This letter was signed by Shri S.S. Saini, describing himself as Personnel Officer addressed to Labour Inspector and is dated 3rd May, 1971. Ex. M-5 to Ex. M-10 are the letters addressed to various authorities bearing signatures of Shri S.S. Saini, as Personnel Officer of the management. These letters were written in the years, 1971, 1972, 1973, 1974 and 1975. M.W. 1 Partner and Works Manager of the management has also corroborated these documents and stated that Shri S.S. Saini is their Personnel Officer. On the contrary, the workman has said nothing against the authorities of Shri S.S. Saini, I am fully convinced that written statement has been filed by an authorised person and Shri S.S. Saini had authority to appear and defend this case. I, therefore, decide issue No. 4 in favour of the management.

Issue Nos. 1 and 2 are inter-connected. Issue No. 2 is the crux of the matter, proof or non-proof whereof helps in decision of issue No. 1. I, therefore, first decide and discuss issue No. 2.

## Issue No. 2

I have gone through the entire evidence of the parties, oral as well as documentary. I have also heard their arguments at length. M.W. 1 stated that the workman was on leave from 16th February, 1976 to 13th March, 1976 and he did not apply for extension of leave. They were surprised to receive demand notice on 2nd April, 1976. Then they sent a letter to the workman copy whereof is Ex. M-12 in a registered cover Ex. M-13 and A.D. Form is Ex. M-14. It was returned by postal authorities. These envelopes were opened before the Conciliation Officer and then Ex. M-12 were taken out of the cover Ex. M-13. Its copy in the record is Ex. 15. He further stated that the workman did not report for duty for 10 days after his leave expired and then according to standing orders his name was discontinued. In cross examination he stated that the name of the workman concerned appeared in their start muster roll upto 26th March, 1976 and not thereafter, and that prior to Ex. M-12 they did not write any letter to the workman concerned that he was absenting after expiry of leave period. He denied a suggestion that the workman concerned had sent an application together with a medical certificate for extension of leave after 13th March, 1976 to 20th March, 1976. He further denied that the workman concerned went to the gates of the factory to attend his duty with a fit certificate on 22nd March, 1976. He denied that some peon was sent to the E.S.I. Office. He further stated that the question did not arise as the workman had not brought any certificate. He admitted that 14th March, 1976 was Sunday, and 15th March, 1976 and 16th March, 1976 were

holidays. He denied that 3/4 days after wards the workman concerned gave a telegram to them. He further denied that, Exhibit M-12 was sent after receipt of the telegram. He proved Ex. M.1, M. 2, and Ex. M. 11 to Ex. M. 15. Ex. M.12 was sent in a registered cover Exhibit M-13 together with A.D. Form Exhibit M-14. Exhibit M-13 the registered cover bear the seal of the post office dated 26th March, 1976. It is, therefore, proved that Exhibit M-12 was sent on 26th March, 1976. Exhibit M-12 bear the signatures of the signing authority Shri G.P. Gupta who had signed and had put the date under his signatures as 26th March, 1976 in ink. Exhibit M-12 reads that the workman was on leave from 11th February, 1976 to 13th March, 1976, he had to report on duty on 14th March, 1976 and he requested absent from more than 10 days and he lost his lien on his appointment automatically as per clause 18, sub-clause 6 of the certified standing orders and that the name of the workman concerned was discontinued from the rolls with that effect. Exhibit M-11 is the extract of certified standing orders, clause V whereof reads that if a workman remaining absent or over staying leave granted shall lose his lien automatically unless he returns within 10 days of his absence or of the expiry of the sanctioned leave and explains to the satisfaction of the authority, his inability to resume his duty, giving reasons why he could not give any information to that effect. Clause 4 of the certified standing orders reads that if a workman desire extension of leave he shall make an application under registered cover for the purpose to the Manager in writing clearly stating the specific reasons and duration for which extension is sought and the address where reply is to be sent and the management shall send written reply under registered cover conveying the grant or refusal or extension of leave at the address given by him, if the reply is likely to reach him before the expiry of leave. This rule further reads that if address has not been given by the workman on his application for extension, intimation shall be sent to him on the address available on the record of the establishment. This rule further reads that in the extension of leave is desired on medical grounds then the workman sent medical certificate with his application from medical officer of the E.S.I. Dispensary or registered medical practitioner not less than a M.B.B.S. Rule 4 and 5 of the certified standing orders of the management are crucially to decide whether the workman concerned complied with these provisions of the standing orders or not. Exhibit M-15 is a letter of the management to the workman concerned telling him that he had to report on duty on 14th March, 1976 but he was absent for more than 10 days and as per clause 6 of clause 18 of the standing orders he had lost lien on his appointment and his name was discontinued from the rolls. Exhibit M-1 is appointment letter of the workman. Clause 7 of this letter reads that all rules and regulations, orders, standing orders as issued and enforced from time to time will be binding on the workman in all respects and the workman has accepted all those terms and conditions of service as given in Exhibit M-1, Exhibit M-17 is a registered cover address to the Manager of the management which was received by the management on 2nd April, 1976 at 11:45 A.M. It bears the number of the registered letter as RL-972, dated 1st April, 1976. This shows that this envelope was sent to the Manager by the workman on 1st April, 1976 and was received by the management on 2nd April, 1976 in which the demand notice was sent. Exhibit M-16 is the demand notice. Exhibit W-1 is a photostat copy of the writing addressed to the Manager of the factory by Than Singh, reading that the workman had given his medical certificate and fitness certificate dated 22nd March, 1976 and praying that his letter containing prayer may be certified. This letter also reads that an amount connected with the said certificate had not been sanctioned. Ex. W-1 also bears the certificate for endorsement that medical certificates from some private doctor for the period from 11th March, 1976 to 20th March, 1976 was received in their office on 22nd March, 1976 and the same had been rejected. It is signed by some person and under his signatures the date is 26th March, 1976, which means that this certificate was granted on 26th March, 1976 by some official of the local office of the E.S.I. hospital. Exhibit W-2 purports to be a copy of telegram by the workman to the management which is also dated 26th March, 1976. The postal receipt of the telegrams also bear the seal of the post office and the date in it is also 26th March, 1976.

From a discussion of this evidence, I find that the evidence of the workman regarding the date of his presence at Faridabad is not prior to 26th March, 1976. If the workman concerned attended the factory on 22nd March, 1976 and was refused work why he did not issue the telegram to the management on 22nd March, 1976 and why he gave that telegram on 26th March, 1976. The telegram Exhibit W-2 reads "refusal work, illegal, reinstate with full back wages". Then the certificate by some official of the E.S.I. Local office also bear the date 26th March, 1976, although it is mentioned therein that the medical certificate was received in their office on 22nd March, 1976. It is also not understood as to why this certificate that the medical certificate was received in their office on 22nd March, 1976 was not obtained on 22nd March, 1976 and was obtained on 26th March, 1976. That is the whole documentary evidence given by the parties. That certificate/endorsement is also not proved.

After the evidence of the management was closed, the workman concerned examined himself as his own witness as W.W. 1. He stated that he sent an application for extension of leave upto 20th March, 1976 from 11th March, 1976, accompanied by a medical certificate but he could not prove such an application, nor he summoned such application from the management, neither he summoned a medical certificate from the custody of the management. He further stated that he had brought fitness certificate with him but he was not allowed entry at the gate. He further stated that E.S.I. Local office asked him to give fitness certificate and he handed over the fitness certificate as well as medical certificate to them but the certificate or endorsement on Exhibit W-1 by the E.S.I. Local office speaks of a medical certificate only and not of fitness certificate. If the workman concerned, as per his statement before this Tribunal, gave fitness certificate as well as medical certificate to the E.S.I. Local office, his plea that he sent medical certificate to the management with his application for extension of leave, prove false. When he had sent medical certificate to the management with his application for extension of leave how he could hand over the same to the local E.S.I. office. The endorsement or certificate by the E.S.I. Local office on Exhibit W-1 speaks that medical certificate were received in their office. This certificate or endorsement of the E.S.I. Local office does not speak that the medical certificate were handed over to them by the workman concerned, that also does not prove the veracity of the statement of the workman concerned. Moreover this endorsement or certificate is also dated 26th March, 1976, although described that the medical certificate is received in that office on 22nd March, 1976. Now the medical

certificate is also alleged to be from some private doctor from 11th March, 1976 to 20th March, 1976 only and not for any period after that. The workman concerned further stated that on 22nd March, 1976 he again went to the factory but the management refused to take him on duty. Then he waited for 2/3 days and went to the gate of the factory. Why? when the management refused to take him back on duty on 22nd March, 1977 why he went to the gate of the factory for 2/3 days thereafter and did nothing. There is no reliable evidence as to what he did after 22nd March, 1976 upto 26th March, 1976. Postal receipt relating to telegram is on the file but the contents of the telegram are not proved. Records of conciliation proceedings have not been produced. In cross examination the workman stated that he fell sick on 11th March, 1976 and was suffering from fever. Neither medical certificate, nor fitness certificate nor contents thereof nor the name and qualification of the doctor issuing them nor dates thereof have been proved. When the workman concerned was asked as to had he kept a copy of the application for extension of leave, he replied no and stated that he had sent that application by ordinary post and not by registered A.D. nor postal certificate. He stated that he had sent medical certificate in that envelope. Then the question arises as to how he could hand over the medical certificate to the local E.S.I. Office. In cross-examination he further stated that the doctor had given him a medical certificate on 13th March, 1976. He told the name of the doctor as Ramesh Chander Diwadi of Registered Medical Practitioner but he did not know his medical qualifications. He further stated that Jag Mohan Gateman disallowed him entry in factory premises but he did not examine the said Shri Jag Mohan and stated that the same Gateman had stopped him entering the gates on 24th March, 1976 and 25th March, 1976. He stated that once he went in the factory on 26th March, 1976 but was turned out afterwards. He stated that he did not go to the Labour Inspector and that he did not send any letter to the management prior to Exhibit M-5 which is the demand notice, dated 1st April, 1976. He denied a suggestion by the management that he was not present in Faridabad during those days. He further denied a suggestion by the management that he himself had not gone to the E.S.I. Office but it was his brother who had gone there. He further denied the suggestion that Exhibit W-3 the postal receipt relating to telegram was given by his brother and not by him. The workman also examined Shri Kanti Parshad a workman in some other factory as W.W. 2 who stated that brother of the workman concerned Shri Suambar Singh was a member of the union and Shri Suambar Singh had told him on 22nd March, 1976 that the management did not take the workman concerned on duty and asked the workman concerned to get that medical certificate countersigned by the local E.S.I. He told Shri Suambar Singh that the workman concerned to see some officer of the management. He stated that Suambar Singh told him again in the evening of 22nd March, 1976 that the workmen concerned had got done the requisite things by the local E.S.I. and the management had told the workman concerned to attend on 23rd March, 1976 and that the workman concerned attended and even then the management did not take him on duty and the management again told the workman concerned to come on 24th March, 1976 and the same thing was repeated on 24th March, 1976, and 2/3 days thereafter Suambar Singh told him that the management declined to take the workman concerned on duty. He further deposed that he had seen Than Singh for 3/4 days at the gate of the factory continuously from 22nd March, 1976. He stated that then they gave a telegram to the management, although the telegram is not properly proved. He stated that the workman concerned was with him at the time they gave the telegram. In cross-examination he stated that all the workmen of the management perform their duty in one shift only. The factory of the management run one shift only. He admitted that the workman of the management have chosen their representative to take part in settling the dispute with the management. He further stated in cross-examination that there was a whole time worker of the union who had written the contents of the original telegram. It means that this witness had not written the contents of the telegram. He told the name of the writer of the telegram after re-collection. He stated that he did not know English and can not read the contents of the telegram and even then he stated in examination-in-chief that the telegram, copy whereof is Exhibit W-2, was the telegram that Shri Than Singh had given. He then stated that the workman concerned had told him the contents of the telegram that the workman concerned had gone to the factory for taking his duty and he was not given duty and that he be given duty. I have read the telegram Exhibit W-2, these contents are not found therein. I can not place any reliance on the evidence of this witness. He has gone much further than what the workman has stated. There is a great contradiction in the statement of this witness W.W. 2 and the workman concerned W.W. 1. This witness stated that on 23rd March, 1976 and 24th March, 1976 the brother of the workman concerned told him that the workman concerned went at the gates of the factory and the management had told him to come the next day, and the workman concerned stated that the management refused to take him duty on every day he went there. The workman concerned nowhere stated that the management had asked him to come on duty the next day. The statement of both the witnesses do not inspire reliance. It seems that the story has been concocted that the workman attended the gates of the factory on 22nd March, 1976 to 24th March, 1976. Had the workman concerned attended the factory gates on those dates, or had he been there at Faridabad during those days, what stopped him from meeting the Labour Inspector or Labour Officer or any other proper authority. The documentary evidence produced by the workman does not go prior to 26th March, 1976. Moreover the workman concerned did not examine his brother Shri Suambar Singh who was the member of the union of W.W. 2 and from whom W.W. 2 had come to know about the incidents as stated by him, this also goes against the workman concerned. Moreover the writer of the telegram was also not produced. That also goes much against the workman concerned. The oral statements of W.W. 1 and W.W. 2 are not in conformity with the documentary evidence produced by them. As far as demand notice Exhibit M-6 is concerned it is not in dispute, although it is dated 1st April, 1976. The authentic document is a postal receipt Exhibit W-3 which is dated 26th March, 1976, that relates to telegram but the telegram itself or its contents are not proved. Then there is a endorsement or certificate by local E.S.I. Office dated 26th March, 1976 to the effect that medical certificate from some private doctor were received in that office on 22nd March, 1976, that also does not go to help much the workman concerned. The qualifications of the private doctor is also not proved who is said to have issued the alleged medical and fitness certificate. Rule 4 of clause 18 of the certified standing orders of the management requires certificate from medical Officer of the E.S.I. dispensary or registered medical practitioner not less than M.B.B.S. The M.B.B.S. degree of the said doctor is not proved. The workman has failed to bring his case within rule 4 of the clause 18 of the said standing orders. Then I come to clause 5 of clause 18 of the said certified standing orders, which means that if the workman returns within 10 days of his absence or of the expiry of the sanctioned leave, only then he is saved, otherwise not. If he returns after 10 days, he is not saved. The workman is saved only if he returns maximum on the 10th day at the time of joining his duty, otherwise he is not saved. From the evidence discussed above, I am not in a position to conclude that the workman concerned returned on the 10th days, at the time of joining his duty, of the expiry of his sanctioned leave. Here I have to discuss some more evidence of the parties also. It is an admitted fact that 14th was Sunday. It is also an admitted fact that 15th March, 1976 and 16th March, 1976 were Holi holidays and the factory was closed. It is an admitted fact that 14th March, 1976 was Sunday but there is no evidence by both the parties whether on Sunday the factory was closed or not, although it is in evidence that 15th March, 1976, and 16th March, 1976 the factory was closed. Assuming, although not proved, that factory was closed on 14th March, 1976. The question arises whether the workman returned on his duty at the time of joining his duty on the 10th day of the expiry of his leave and thereby full filled the requirements of rule 5 of clause 18 of the certified standing orders of the management.

It is clear that the workman neither complied with rule 4 of the certified standing orders of the management, nor rule 5 thereof. Therefore, he could not bring this case within the above said rule. The plea of the workman that he had attended the factory gate on 22nd March, 1976 is not proved.

The learned representative for the management argued that when the workman did not report for joining his duty on 14th March, 1976 to 17th March, 1976, he shall be deemed as absent even on 14th March, 1976, 15th March, 1976 and 16th March, 1976. He further argued that had he reported for duty on these days, the matter would have been otherwise. The learned representative for the workman argued that 14th March, 1976 being Sunday and 15th March, 1976 and 16th March, 1976 being Holi holidays, the absence can be counted from 17th March, 1976. The workman failed to prove that he sent any application for extension of leave together with medical certificate or even a medical certificate to the management.

I have considered all the arguments by the learned representatives for the parties. I find that the workman remained absent and overstayed leave beyond the leave originally granted to him and he did not return within 10 days of his absence or of the expiry of the sanctioned leave. As far as the question of explanation to the satisfaction of the authority granting leave, the inability of the workman to resume his duty giving reasons why he could not give any information to that effect, has not been raised not it is the case of the workman. Therefore, I find that the workman concerned has contravened the rules 4 and 5 of clause 18 of the certified standing orders and thereby lost his lien on his appointment.

After the arguments were heard, the learned representative for the workman cited 1977-LAB-IC-page 1695. I have gone through this ruling. That ruling also has not undone the standing orders. Their Lordships considered the standing orders of the management and found that the workman was not absent for more than 8 days. The standing orders read that if any workman is absent for more than 8 consecutive days, his service shall be terminated and shall be treated having left the service without notice. In that case more than 8 days had not expired and therefore their Lordships held that the service of the workman could not be terminated if more than 8 days had not expired, rather their Lordships considered the standing orders but their Lordships found that the management did not comply with even their standing orders. Their Lordships nowhere held in that ruling that standing orders shall not apply, rather they had a consideration for standing orders. Had the management complied with their standing orders the result might have been otherwise. But in this case the management has complied with their standing orders. Moreover, in that above said ruling the management had offered to retrench the workman concerned. Such are not the facts in this case. This case is a simple case of absent on the part of the workman concerned. In this case the management have complied with their standing orders. The workman did not return within 10 days of the expiry of the sanctioned leave, then the workman according to sub-clause (5) of clause 18 lost his lien on his appointment; counting the days of absence from any way, it is clear that the workman would have returned within 10 days, had he joined his duty when his duty began on 26th March, 1976 and when he did not join his duty on 26th March, 1976, the management considered the workman as having lost his lien on the appointment under sub-clause (5) of clause 18 of their standing orders, as per Exhibit M-12. I, therefore, give my award as follows :—

That the workman concerned lost his lien on his appointment as per standing orders of the management and it is not a case of termination of his services of the workman concerned Shri Than Singh by the management. In the circumstances, the workman is not entitled to any relief.

The 24th February, 1978.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 157, dated the 28th February, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 28th February, 1978.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 23rd March, 1978

No. 3264-3Lab-78/1724. In pursuance of the provision of Section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Thomson Press (India) Ltd., Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 30 of 1977

between

Shri Kanchan Singh, workman and the management of M/s Thomson Press (India) Ltd., Faridabad.

AWARD

By order No. ID/FD/867-A-76/22036, dated 4th June, 1977, the Governor of Haryana referred the following dispute between the management of M/s Thomson Press (India) Ltd. Faridabad and its workman Shri Kanchan Singh to this Court for adjudication in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Kanchan Singh was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman concerned alleged,—*vide* claim statement filed by him in conformity with the notice of demand, dated 11th May, 1976 that the management concerned illegally terminated his services with effect from 23rd April, 1976 in order to victimise him for his trade union activities and that he was entitled to reinstatement with continuity of service and full back wages. He stated that he stood surety for appearance of Shri Babu Khan, President of the Union of the workmen and got him released on bail despite the management having asked him not to do so and that the latter felt aggrieved and victimised him by way of discharging him from service on that account as also for the reason that he was an active member of the union of the workmen of the factory. He further alleged that he was not given proper opportunity by the Enquiry Officer to take part in the enquiry ordered against him and that the enquiry thus held against him was faked and illegal.

The management pleaded, — *vide* written statement filed by them that the appropriate Government having once declined to make the reference,—*vide* their memo, dated 2nd September, 1976, this reference subsequently made without giving them an opportunity to be heard was bad in law. They controverted the allegations of fact made by the workman concerned.

The workman reiterated the allegations made by him in the claim statement and while admitting that the appropriate Government had earlier declined to make the reference controverted other pleas of the management concerned,—*vide* rejoinder filed by him. He explained that the management concerned had exercised their influence on the Government leading to a decision not to make the reference and that this reference subsequently made was legal and valid in all respects.

The following issues were thus framed by me,—*vide* order, dated 8th August, 1977 on pleas of the parties:—

1. Whether the reference is bad in law for the preliminary objections stated in the written statement ?
2. If not, whether the termination of services of Shri Kanchan Singh was justified and in order ? If not, to what relief is he entitled ?

I have heard learned authorised representatives of the parties and seen the records. I decide the issues as under :—

*Issue No. 1.*—It is admitted on both sides, that the appropriate Government intimated the management concerned their decision not to make a reference in respect of the demand of the workman raised on the latter by him relating to his right of reinstatement with continuity of service and full back wages. The only question requiring determination under the circumstances would be as to whether the earlier decision of the appropriate Government not to make a reference legally barred this reference. The answer would be in the negative in view of the authorities reported as 1977 Labour Indian Cases 988 of the Andhra Pradesh High Court *Shri Krishan June Mill Elure versus The Government of Andhra Pradesh and others* and AIR 1970 Supreme Court 1205 *Western India Watch Company versus its Workmen* and 1970 II LLJ 538 *Workmen of New Snow View Transport Private Ltd. versus State of Punjab* and other and 1973 Current Law Journal *British Indian Corporation Ltd. versus Shri Mohd. Sadiq, etc.* wherein it was held that the Government can change its mind on a reconsideration of the matter either because new facts have come to light or it had misunderstood the existing fact or for any other relevant consideration, and decide to make the reference even after it had once refused to do so, in as much as, its function are administrative and judicial principles of res judicata cannot be said to be applicable. No direct authority taking a contrary view could be submitted by learned authorised representative of the management concerned and I as such relying on the aforesaid decisions of the Andhra Pradesh High Court, Punjab and Haryana High Court, and the Supreme Court hold that the reference now made by the appropriate Government is not legally barred as a result of their earlier decision not to make the reference, duly intimated to the management and decide this issue against the management.

*Issue No. 2.*—This is an important issue in the case. The management in order to prove this issue examined Shri K.P. Aggarwal who had been appointed as an Enquiry Officer by them for holding an enquiry into the charge-sheet copy Exhibit M-1 served on the workman concerned. Shri K.P. Aggarwal deposed that he held the enquiry according to the principles of natural justice while giving the workman full opportunity to take part therein and that he returned his findings, dated 17th April, 1976 copy Exhibit M-5 on Consideration of the evidence led by the parties and submitted the same to the Managing Director who,—*vide* his order, dated 23rd April, 1976 copy Exhibit M-6 discharged the workman concerned from service. He brought on record copy of the Certified Standing Orders of the management Exhibit M-7 applicable to the workman. His evidence requires close scrutiny.

The workman concerned was admittedly charged for acts constituting major misconducts under items (xxx), (ix) and (xxiii) of clause 19 of the Certified Standing Orders of the management as under :—

- (i) That he left his place of duty without permission of his officer Incharge on 28th February, 1976 at 10.00 a.m. (Wilful absence from duty without the specific permission of the incharge).

- (ii) That he thereafter went to the place of work of Shri Gulshan Lal and asked him to vacate the stool occupied by him and on his (Gulshan Lal) refusing to do so pulled the stool from under his causing him to fall on the floor. (Riotous, disorderly or indecent behaviour during working hours or wrongfully interfering with the work of other employees or any improper Act within the factory premises or preaching or inciting violence).
- (iii) And on Shri Gulshan Lal resenting his action, he gave a slap on his face and fought with him on the department causing injury to his right eye. (Fighting in the factory premises or creating rowdyism).

The workman denied the correctness of the chargesheet,—*vide* his explanation, dated 3rd March, 1976 Exhibit W-5 and stated that Shri Gulshan Lal had in fact initiated the whole trouble in the manner as had been mentioned by him in detail in his complaint dated 23rd February, 1976 to Personnel Officer at the earliest. He set up a case that Shri Gulshan Lal in fact caused him injuries on 28th February, 1976 and that he got himself medically examined. The management having found the explanation unsatisfactory ordered an inquiry. Shri K.P. Aggarwal, Enquiry Officer, on consideration of the evidence led before him by the parties while holding the first charge as unsubstantiated found other charges established,—*vide* his findings Exhibit M-5 duly submitted by him before the management. The management relying on the findings of the Enquiry Officer, discharged the workman concerned from service,—*vide* their order, Exhibit M-6 /1.

I have carefully gone through the records of the enquiry held by Shri K.P. Aggarwal against the management concerned into the aforesaid charges and read the evidence led before him by the parties. I find that the enquiry was held by Shri K.P. Aggarwal strictly according to the principles of natural justice with full opportunity to the workman to take part therein, and to cross examine the witnesses examined by the management and to adduce his own evidence in defence. Shri Kanchan Singh is found to have agreed to the enquiry being held by Shri K.P. Aggarwal,—*vide* his signatures, dated 12th March, 1976. He is further found to have duly cross examined each one of the witnesses examined by the management and to have examined two witnesses in his own defence. There is no objection either in writing or verbal on behalf of the workman concerned on record relating to the irregularity of the enquiry and considered from all angles, no infirmity could be found in the proceedings of the enquiry taken up by the Enquiry Officer. Shri Bhim Singh Yadav authorised representative of the workman could not refer me to any fact or circumstance rendering the enquiry vitiated. I, thus hold that the enquiry was held by Shri K.P. Aggarwal according to principles of natural justice with full opportunity to the workman to take part therein and as such it was legal and binding on him in all respect.

Coming now to the findings of the Enquiry Officer, these are found well supported by the testimony of Shri P.C. Nagpal, Shri Gulshan Lal, Balam Singh and Darshan Lal, eye witnesses of the occurrence. None of whom excepting Gulshan Lal is even alleged to be in any way hostile or inimical to the workman, much less proved. Even though Shri Daya Ram another alleged eye witness did not support charges II and III and the story put forth by the management, yet this fact alone is no sufficient to lead me to hold the evidence of Sarvshri P.C. Nagpal, Gulshan Lal, Daram Singh and Darshan Lal as false and unreliable or at any rate set aside the findings of the Enquiry Officer. Out of the two witnesses Sarvshri Munna Lal and Kalan Khan examined by the workman in evidence Shri Munna Lal did not support his case that Shri Gulshan Lal in fact forcibly took away the stool from under the workman concerned and he was the aggressor and the other Kalan Khan admitted to have not seen Shri Gulshan Lal belabouring the workman concerned and deposed only with reference to the first part of the story of the later that he took away stool from under Shri Gulshan Lal and abused him. It is further significant to note that the names of Kalan Khan and Munna Lal were never suggested in cross examination of P.C. Nagpal, Darshan Lal, Balam Singh and Gulshan Lal examined by the management, as having seen the occurrence. It is thus obvious that the case put forth by the workman of their having witnessed the occurrence is an after thought and liable to be rejected on that ground alone. The circumstance that Sarvshri Gulshan Lal, Balam Singh, Darshan Lal and Daya Ram made complaints against Shri Kanchan Singh, workman concerned to Shri C.P. Chaudhry, Labour Officer of the management concerned immediately after the occurrence and Shri Gulshan Lal did not prove that he made any complaint in support of his story on 23rd February, 1976 or that he received an injury on that date and got himself medically examined thereafter further strengthen the story put forth by the management. Above all there is not a word in the statement of the workman in support of his allegations of his engagement in trade union activities.

The findings of the Enquiry Officer having thus been found well born out from the evidence of Shri C.P. Chaudhry, Gulshan Lal, Balam Singh and Darshan Lal have to be well maintained and I do not find any substantial material on record justifying me to set aside the same. The satisfaction of the Enquiry Officer relating to the proof of the charges, from the evidence of the witnesses examined by the management should normally well weight with the Labour Court till it is shown that the findings are either not borne out from the evidence on record or otherwise perverse and absolutely unmaintainable. I, therefore, uphold the findings Exhibit M-5 of the Enquiry Officer holding charges II and III established. The findings of fact well constitute major misconduct of the workman concerned of fighting in the factory premises and creating rowdyism within the meaning of sub-clause (xxiii) and riotous and disorderly behaviour during working hours within the meaning of sub-clause (ix) of clause 19 of the Certified Standing Orders. There is nothing extenuating on record for the workman concerned justifying awarding him a lesser punishment for the serious misconducts proved to have been



committed by him. I, thus uphold the order of the management discharging him from service Exhibit M-6/1. The workman concerned is obviously not entitled to any relief. I, therefore, decide this issue in favour of the management and answer the reference while returning the award in these terms.

The 20th February, 1978.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 630, dated 13th March, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labor Court, Haryana,  
Rohtak.

No. 3263-3Lab-78/1926.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Oswal Electricals, Industrial Area, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 23 of 1977

between

SHRI NAWAB ALI, WORKMAN AND THE MANAGEMENT OF M/S OSWAL ELECTRICALS  
INDUSTRIAL AREA, FARIDABAD

AWARD

By order No. 1D/FD/567-A-75/21952, dated 4th June, 1977, the Governor of Haryana referred the following dispute between the management of M/s Oswal Electricals Industrial Area, Faridabad and its workman Shri Nawab Ali, to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Nawab Ali was justified and in order? If not, to what relief is he entitled?”

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman concerned alleged,—*vide* claim statement filed by him that the management concerned illegally terminated his services with effect from 25th November, 1975 with mala fide intention without holding any enquiry against him, in order to victimise him for his trade union activities and on account of his having made a complaint against them to the Labour Inspector and other appropriate authorities, for redress of his grievances.

The management concerned admitted that they had retrenched the services of the workman with effect from 25th November, 1975 and pleaded that their action fully justified and legal and that the appropriate Government having once taken a decision not to make the reference duly intimated the same to them—*vide* letter, dated 10th March, 1977 and this reference subsequently made was bad in law and liable to be quashed on that ground. They further, pleaded that the Labour Court, Haryana had no jurisdiction to entertain and decide the reference relating to the legality and justification of the retrenchment of the workman concerned and that only an Industrial Tribunal could decide such matters. They stated that the workman had to be retrenched from service due to closure of their foundry and that he declined to receive the amount admissible to him under section 25(f) of the Industrial Disputes Act (hereinafter referred to as the Act) for his retrenchment on its being offered to him personally and through registered post. They finally averred that they issued a notice dated 27th October, 1976 under section 9(a) of the Act showing their intention to close their foundry and sent a copy thereof to the authorities concerned.

**E** The following issues were thus framed by me on pleas of the parties,—*vide* order, dated 18th August, 1977 :—

- (1) Whether the reference is bad in law for the preliminary objections as stated in the written statement ?
- (2) If not, whether the termination of services of Shri Nawab Ali was justified and in order ? If not, to what relief is he entitled ?

I have heard learned authorised representatives of the parties at some length with reference to the evidence led by them and seen the records. I decide the issues as under :—

**Issue No. 1.**—It had to be conceded by the management concerned that this reference relating to the legality and justification of the workman concerned made to the Labour Court, Haryana was fully in order in view of the strength of the workmen on their rolls being admittedly less than 100 on the relevant date.

It is admitted on both sides, that the appropriate Government intimated the management concerned their decision not to make a reference in respect of the demand of the workman raised on the later by him relating to his right of reinstatement with continuity of service and full back wages,—*vide* their letter, dated 10th March, 1976, copy Ex. M-31. The only question requiring determination under the circumstances would be as to whether the earlier decision of the appropriate Government not to make a reference legally barred this reference. The answer would be in the negative in view of the authorities reported as 1977 Labour Indian Cases 988 of the Andhra Pradesh High Court *Shri Krishan Mills Elure versus*. The Government of Andhra Pradesh and others and A.I.R. 1970 Supreme Court 1205 *Western India Watch Company versus* its workmen and 1970 II LLJ 538 *workmen of New Snow View Transport Private Ltd. versus* State of Punjab and others and 1973 Current-Law Journal British India Corporation Ltd. *versus* Shri Mohd. Sadiq, etc., wherein it was held that the Government can change its mind on a reconsideration of the matter either because new facts have come to light or it had misunderstood the existing fact or for any other relevant consideration, and decide to make the reference even after it had once refused to do so, in as much as its function are administrative and judicial principles or res judicata cannot be said to be applicable. No direct authority taking a contrary view could be submitted by learned authorised representative of the management concerned and I as such relying on the aforesaid decisions of the Andhra Pradesh High Court, Punjab and Haryana High Court and the Supreme Court hold that the reference now made by the appropriate Government is not legally barred as a result of their earlier decision not to make the reference, duly intimated to the management and decide this issue against the management.

**Issue No. 2.**—This is an important issue in the case. It stands admitted on both sides, that Shri Nawab Ali workman concerned was in service of the management concerned as a Moulder with duties assigned to him by the later of running a foundry. It is further conceded by the parties that the foundry was closed on 25th October, 1975 by the management concerned and no person was engaged or taken in employment by them as a moulder thereafter. Two question thus arise for determination for deciding this issue, one as to whether the retrenchment of the workman concerned from service admittedly made by the management was justified and the other as to whether due procedure and formalities required by law were observed by the later while retrenching his services.

Taking up the first question Shri R. K. Jain, Managing partner coming in the witness box deposed that the management was engaged in the business of manufacturing electric motors and agricultural pumping sets besides pressure dyecast and that they got the bodies of their electric motors and pumping sets of the strength of more than one horse power cast from outside the factory and got the bodies of electric motors and pumping sets of the strength up to one horse power cast inside their factory in a foundry being run by them for that purpose till 25th October, 1975 and that they began getting even such bodies of the strength of about one horse power cast from outside the factory after 25th October, 1975 when they closed their foundry. He brought on record the statement, Ex. M-23 relating to the sales of the electric motors and agriculture pumping sets during the years 1974-75 and 1975-76 showing a downward trend and the statement, Ex. M-22 showing the cost of moulding as Rs 3.70 per one Kilogram of aluminium from the foundry being run by them inside the factory. He gave out that he got these statements prepared from the relevant records and that the cost of moulding of one Kilogram of aluminium got done from outside after the closure of their foundry came to Rs 3.25. He thus suggested that they had to close the foundry for effecting economy and considering downward trend of the sales of the electric motors and agriculture pumping sets manufactured by them.

He produced copies of letters, dated 15th January, 1976 and 20th December, 1975, Ex. M-24 and M-26 sent by the management to the District Industries Officer and Haryana State Small Industries and Export Corporation respectively surrendering the quota, of coal, pig iron and molasses as a result of the closure of the foundry besides acknowledgement receipt, Ex. M-25 and reply to of the Government, Ex. M-27. He deposed that the notice, dated 27th October, 1975, copy Ex. M-1 relating to the change of the conditions of service of the workman concerned inform 'E' as required under section 9(a) of the Act was signed by him.

It would appear that the statement of Shri R. K. Jain is found fully corroborated by the documentary evidence referred to above. Nothing could be brought out in his cross examination justifying the rejection of his evidence as false. No attempt was made by the workman to assail any of the documents brought by him on record.

and considered from any angle his statement inspires full confidence. I, thus relying on his evidence hold that the management closed their foundry for effecting economy and had thus to retrench the services of the workman concerned, admittedly the only employee running the same. Such a retrenchment is well covered by the definition of this term as given in section 2(oo) of the Act as under and is legal and justified in all respects :—

“retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman ; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf ; or
- (c) termination of the service of a workman on the ground of continued ill-health ;

This brings me down to the discussion of the 2nd important question referred to above. I am thus called upon to determine as to whether the management concerned actually followed the procedure required by law for retrenching the services of the workman concerned. It has thus become necessary to reproduce the provisions of section 25(f) of the Act relating to conditions laid down as precedent to retrenchment of a workman as under :—

*Conditions precedent to retrenchment of workmen.*—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such noticewages, for the period of the notice ;

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service ;

- (b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay (of every completed year of continuous service) or any part thereof in excess of six months ; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the official Gazette).

It would thus appear that the retrenchment of a workman in order to be valid, must be preceded by payment to him by the management of one month's notice pay and retrenchment compensation as provided,—vide section 25(F) of the Act reproduced above and service of the notice on the appropriate Government or such authorities as has been specified in this connection. It has thus to be seen whether the statutory conditions precedent to retrenchment of the workman concerned have been duly fulfilled, and complied with.

Reference in this connection may be made to notice copy Exhibit M-30 allegedly sent to the Secretary to Government, Haryana with copies to Conciliation Officer, Labour Inspector and Labour Commissioner, Haryana under registered posts and letter Exhibit M-4 allegedly tendered for delivery to the workman concerned by the management in compliance with the provisions of section 25 (F) of the Act. Shri R.K. Jain Managing partner appearing as MW-5 deposed that the letter in 'P' form Exhibit M-30 bore his signatures. Shri Ramesh Chand Jain cashier examined as MW-4 brought on record the postal receipt Exhibit M-14 to M-16 and the acknowledgement receipts M-17 to M-19 of the letter of copy Exhibit M-30 sent to the Secretary to Government, Haryana and other authorities under registered post in compliance with sub-clause (c) of clause (a) of section 25(F) of the Act.

Shri Rajinder Kumar stated that the workman refused to receive the copy of the letter dated 25th November, 1975 Exhibit M-4 when tendered to him for that purpose by him in the presence of Sarvshri Jagan Nath, Babu Ram and Puran Mal member of the sub committee with the payment of amount mentioned therein including one month's notice pay and retrenchment compensation. Shri Jagan Nath corroborated his statement while giving out that he made his endorsement M-4/1 relating to the refusal of the workman to receive the letter. Even though Shri Puran Mal examined as WW-3 by the workman deposed that no such letter was ever tendered to Shri Nawab Ali in his presence yet he had to admit in cross-examination that the endorsement Exhibit M-4/B relating to the refusal of the letter to receive the letter was in his own hand writing and under his signatures. His explanation that this endorsement was obtained by him by Shri R. K. Jain under pressure and threat of termination of his services is obviously unconvincing and unreliable particularly when no evidence could be brought on record relating to such a complaint alleged to have been made by him to the authorities. It is further significant to note that Shri Puran Mal admitted that Sarvshri Jagan Nath and Babu Ram members of the Works Committee were present at the time of his making the report M-4/B. His statement and the admission made by him relating to the presence of Jagan Nath and Babu Ram members of the Works Committee at the time of his making the report Exhibit M-4/B, instead of rebutting the evidence of Sarvshri Jagan Nath and Rajinder Kumar,

obviously fully corroborated the same and considered from any angle, the plea of the management of refusal of Shri Nawab Ali to receive the letter Exhibit M-4 and the amount mentioned therein stands fully established not only by the evidence of Shri Jagan Nath and Rajinder Kumar witnesses examined by the management but also from the testimony of Shri Puran Mal witness examined by the workman himself. I am thus convinced that the workman refused to receive the letter Exhibit M-4 dated 25th November, 1975 tendered to him with an offer of retrenchment compensation and one month's notice pay admissible to him under section 25 (F) of the Act.

The bonafides of the management concerned are found further established,—vide registered insured letter Exhibit M-8 bearing the residential address of the workman concerned sent to him by the management with a letter copy Exhibit M-10 and a sum of Rs 1,684.97. Even though this insured letter was received back with an endorsement that it was unclaimed and the addressee was not found at the address, yet the management could not be said to be at fault inasmuch as, they sent this letter on the address noted in their records, and presumably supplied by the workman himself and it seems that the later avoided receipt of the same. At any rate the management could not be attributed any notice of stating on the letter an incorrect address intentionally and the circumstances that the insured letter admittedly contained the amount mentioned in the letter Exhibit M-10 including one month's notice pay and retrenchment compensation further strengthened their case that they were always at pains to offer the amount admissible to the workman under section 25 (F) of the Act and the latter alone refused and declined to accept it on one pretext or the other.

Shri M. S. S. Cowshish authorised representative of the workman vehemently urged with reference to the letter Exhibit M-10 sent to the workman in an insured registered cover Exhibit M-8 with a sum of Rs 1,684.97 admissible to the later as one month's notice pay, service compensation, Gratuity, earned wages and earned leave wages, that the amount fell short of Rs 7.20 deducted by the management as postal charges and that they could not thus be said to have complied with the provisions of section 25(f) of the Act. I have carefully considered this matter.

In view of my findings that the workman concerned refused to accept a sum of Rs 1,692.17 tendered to him personally,—vide letter Exhibit M-4, I do not think, that the liability of the expenditure incurred on the postal envelope was that of the management concerned. I, on the other hand believe that the management having once done their duty of tendering the full amount to the workman, the refusal of the later to accept the same rendered liable to himself bear the costs incurred on the postal envelope. Even assuming that management were under a duty to remit the full amount of retrenchment compensation and one month's notice pay to the workman concerned even after the later had refused to receive the same when tendered to him,—vide letter Exhibit M-4, they cannot be said to have withheld any portion of the same inasmuch as the sum of Rs 1,684.97 sent to the workman consisted of not only the retrenchment compensation and one month's notice pay but Gratuity earned wages and earned leave wages as well and the deduction of Rs 7.20 made by the management for postal expenses from the whole amount of Rs 1,692.17 cannot be said to have been made necessarily from the retrenchment compensation and one month's notice pay admissible under section 25 (F) of the Act. The arguments urged on behalf of the workman, that a portion of the deduction should at least be considered as having been made from the retrenchment compensation and one month's notice pay, has no merit, inasmuch as the workman is legally entitled to make an application for computation in money value of the Gratuity, earned wages and earned leave wages under section 33-C(2) of the Industrial Disputes Act and the failure of the management to pay him that amount at the time of retrenchment did not render the retrenchment illegal.

I am thus convinced that the conditions essentially required precedent to retrench the workman concerned were fully complied with by the management concerned and there is absolutely nothing on record for the later in rebuttal of the cogent, trustworthy and overwhelming documentary and oral evidence led by the management.

There is yet another aspect of the case requiring consideration. Shri M. S. S. Cowshish strenuously contended that the closure of the foundry by the management concerned on 25th October, 1975 and their getting the work of casting even if motors and pumping sets weighing one Kilogram done from outside thereafter, was in fact a camouflage and pretext for retrenching the services of the workman concerned. He in this connection referred me to the statement of Shri Om Parkash Aggarwal part time Accountant of M/s. Kumar Casting Faridabad, that the later did the work of casting of the management concerned and were a partnership concerned with M/s. Radhey Shyam and Mrs. Kailash Virmani as partner and Mrs. Kailash Virmani was the wife of Roshan Lal Virmani admittedly employed as a Works Manager with the management concerned. He thus suggested that the management of M/s. Kumar Casting and M/s. Oswal Electricals Faridabad were practically the same and this circumstance well supported the contention that the workman was retrenched from service only in order to victimise him. I have fully considered the matter and given due consideration and thought to the same. I do not find anything wrong or illegal in the matter of the wife of Shri Roshan Lal Virmani an employee of the management concerned being a partner of an entirely other and different management engaged in an independent business of casting of electric motors and pumping sets. The circumstances thus pointed out by Shri M. S. S. Cowshish is not sufficient to lead me to a conclusion that the management of M/s. Kumar Casting and Oswal Electricals were practically the same. I, thus reject this argument as untenable. The statements W-2 to W-6 brought on record by Shri Om Parkash Aggarwal relating to the casting work done by M/s. Kumar Casting Faridabad and showing that whereas the major quantity of work was of the management concerned, the minor quantity thereof was of another concerns, again did not advance the case of the workman referred to above. Above all there is no

a word in the statement of the workman examined as WW-5 in respect of the allegations of his trade union activities and his victimisation by the management on that account and the general statement of Shri Kashmira Singh WW-2 that the moulding of some part was essentially required for manufacturing of electric motors and pumping sets is not disputed and in no way lends strength to the case of the workman.

I, thus in view of the aforesaid discussions have no hesitation in holding that the termination of services of the workman concerned by the management by way of retrenchment was fully justified and in order and he is not entitled to any relief. I, accordingly decide this issue in favour of the management and answer the reference while returning the award in these terms.

The 6th March, 1978.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 629, dated 13th March, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 3452-3Lab-78/1728.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s The Sonepat Co-operative Sugar Mills Ltd., Sonepat.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 103 of 1977

between

SHRI JAI NARAIN, WORKMAN AND THE MANAGEMENT OF M/S THE SONEPAT CO-  
OPERATIVE SUGAR MILLS LTD., SONEPAT

AWARD

By order No. ID/RK/283-77/39438, dated 9th September, 1977, the Governor of Haryana referred the following dispute between the management of M/s The Sonepat Co-operative Sugar Mills Ltd., Sonepat and its workman Shri Jai Narain, to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Jai Narain was justified and in order ? If not, to what relief is he entitled ?”

The parties put in this appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged,—*vide* claim statement filed by them in conformity with the notice of demand dated 30th May, 1977 copy Ex. W-3 served by him on the management concerned that the later terminated his services as a watchman with effect from 28th October, 1976 illegally without assigning any reason and that he was entitled to reinstatement with continuity of service and full back wages. He stated that he was appointed as a part-time watchman on 14th August, 1975 and was thereafter confirmed as a peon in the office with effect from 24th June, 1976 and was later on transferred as regular chowkidar with effect from 12th July, 1976.

The management denied the allegations of the workman,—*vide* written statement filed by them and pleaded that he was appointed as part time chowkidar on 6th August, 1975 on wages of Rs 50 per month purely on temporary basis and that he was thereafter taken as chowkidar on probation for a period of six months—*vide* order dated 24th June, 1976 and that he was transferred as a peon in the cane department—*vide* order dated 22nd September, 1976. They explained that the services of the workman concerned with them all the time was on probation and that he voluntarily absented himself from duties w.e.f. 13th October, 1976 and continued to do so till 28th October, 1976 when his services were terminated under rules as a result of his long continued absence.

The workman reiterated the allegations made by him in the claim statement and controverted the pleas of the management, *vide* rejoinder filed by him and stated that no opportunity was ever given to him to explain the charge of absence levelled against him.

The following issues were thus framed on pleas of the parties,—*vide* order dated 16th January, 1978:—

- (1) Whether Shri Jai Narain was an employee of the management concerned on probation on 28th October, 1976 the date of his termination of his services ?
- (2) Whether the workman absented himself from duty on 13th October, 1976 and continued to do so till 28th October, 1976 ? If yes, to what effect ?
- (3) Whether the termination of services of Shri Jai Narain was justified and in order ? If not, to what relief is he entitled ?

I have heard learned authorised representatives of the parties and seen the records. I decide the issues as under :—

*Issue No. 1.*—The management brought on record the copy of the appointment letter of the Workman as a part time chowkidar w.e.f. 6th August, 1975 on wages of Rs 50 per month Ex. M-1 and the copy of the letter dated 24th June, 1976 relating to his promotion as a regular chowkidar in the scale of Rs 70—2—80/3—95 on probation for a period of six months with a right to them to extend this period of probation by another six months if necessary and to terminate his services without any notice if his work was not found satisfactory during the probation period. The workman brought on record copy of the order dated 12th July, 1976 Ex. W-1 of the management directing him to work as office Chowkidar and copy of the order dated 22nd September, 1976 Ex. W-2 directing him to work as peon in the Cane branch. The correctness of these documents being not disputed it is manifest that the services of the workman concerned were on probation till 28th October, 1976 when the same were terminated by the management concerned. The management could be said to have a right to terminate the services of the workman under orders copy Ex. M-2 only if his work and conduct were found unsatisfactory and not otherwise. I, thus decide this issue in favour of the management.

*Issue No. 2.*—This is an important issue in the case. The management in order to prove this issue examined one Shri Gajinder Singh their labour officer who admittedly joined services with them on 9th November, 1976 after the termination of services of the workman on 28th October, 1976 and had no personal knowledge about the facts deposed by him with reference to the records. He deposed with reference to the register of attendance of the workmen that Shri Jai Narain had been marked as absent during the period from 13th October, 1976 till 28th October, 1976 when his services were terminated as a result of his long continued absence *vide* order copy Ex. M-3 of the General Manager and Chairman made on a report of the Office Superintendent copy Ex. M-4. He gave out that he identified the handwriting of Shri Lok Nath who scribed the entry relating to the absence of the workman concerned in the register of attendance brought by him in Court and that he identified the signatures of the General Manager and the Chairman on the original of Ex. M-3 and the office superintendent on the original of Ex. M-4. He also relied on the copy of the application Ex. M-6 dated 13th January, 1978 of the workman praying for his reinstatement and agreeing that if reinstated he would not claim his back wages.

He admitted in cross-examination that the workman concerned was also marked as absent in the register of attendance on 30th October, 1976 and 31st October, 1976 and he had no personal knowledge of the facts stated by him. No explanation could be given by him in respect of the entries of absence of the workman on 30th October, 1976 and 31st October, 1976 after his services had been terminated on 28th October, 1976.

He admitted that the register of attendance of the employees brought by him appeared to be resticked and Shri Lok Nath the scribe of the entries relating to the absence of the workman was alive and employed in the Co-operative Department. He admitted that whereas there is an authentication of some officer below the entries of presence or absence of the employees in respect of the month of October 1976 there is no such authentication relating to the entries of other months. He admitted that there was no letter in the records of the management relating to an intimation to the workman in respect of the termination of his services or in respect of calling of his explanation for long continued absence. No explanation was given by the management for non examination of Shri Lok Nath the scribe of the entries of absence of the workman concerned. Shri Jai Narain workman appearing as his own witness denied having remained absent from duty from 13th October, 1976 to 28th October, 1976 and gave out that entry relating to his absence were faked and fabricated and that his services were abruptly terminated on 28th October, 1976 by the management without assigning any reasons. He explained that the application copy Ex. M-6 was obtained from him on a misrepresentation that he shall be re-employed if he made such an application.

I have well considered the evidence led by the parties. Shri Vajinder Singh Labour Officer of the management concerned the lone witness examined by them, had no personal knowledge relating to the absence of the workman during the period from 13th October, 1976 to 28th October, 1976. No direct evidence could be led by the management on record to prove their plea of absence of the workman from duty during that period, so much so, Shri Lok Nath scribe of the entries relating to his (workman) absence, through admittedly available for evidence was not examined. The failure of the management to examine Shri Lok Nath thus well led to a presumption under the principles stated in section 144 of the Indian Evidence Act that if examined he would have deposed against them. The register of attendance of the employees of the management concerned admittedly appear to be resticked and was as such obviously a suspicious document. The circumstance that the entry relating to the

attendance or absence of employees in respect of the month of October 1976 were found authenticated and the entire relating to other month remained unauthenticated led strength to the conclusion arrived at by me in respect of the suspicious nature of the entries. The workman was admittedly not intimated the factum of his absence from duty and no explanation was called from him in this connection and this circumstance further lends support to the inference that the plea of the management relating to his absence is false and fabricated. Considered from any angle, the management have miserably failed to substantiate the plea covered by this issue and in absence of any direct evidence on record and in view of the failure of the management to adduce evidence available to them, I decide this issue against them.

*Issue No.3.*—In view of my findings made on issue No. 2 the order of termination of services of the workman as a result of his long continued absence is obviously unjustified and illegal and he is entitled to reinstatement with continuity of service and full back wages. I, hold and decide this issue accordingly and answer the reference while returning the award in these terms.

Dated the 10th March, 1978.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 668, dated the 16th March, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

The 30th March, 1978

No. 3616-3Lab-78/1742.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Chanda Enterprises, Industrial Area, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 212 of 1977

between

SHRI SHIV CHARAN WORKMAN AND THE MANAGEMENT OF M/S CHANDA ENTERPRISES,  
INDUSTRIAL AREA, FARIDABAD

*Present* :—None, for the workman.

Shri K. P. Aggarwal, for the management.

#### AWARD

By order No. ID/FD/426-77/49096, dated 22nd November, 1977 the Governor of Haryana, referred the following dispute between the management of M/s Chanda Enterprises Industrial Area, Faridabad and its workman Shri Shiv Charan, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Shiv Charan was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared. The workman filed his claim statement. The case was fixed for filing written statement by the management. At this stage, the workman settled his dispute and received a sum of Rs. 630-99,—vide a receipt duly executed by him and a sum of Rs. 399 only,—vide a voucher in full and final statement of his dispute. I, therefore, give my award as follows:—

That the termination of services of the workman concerned was justified and in order. He is not entitled to any relief.

The 16th March, 1978.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

N. 240, dated the 17th March, 1978.

Forwarded (four copies) the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 17th March, 1978:

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 36152-3Lab-78/1744.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Hindustan Kokoku Wire Ltd., 12/2 Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, ARBITRATOR AND PRESIDING OFFICER,  
INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 50 of 1977

between

THE WORKMAN AND THE MANAGEMENT OF M/S HINDUSTAN KOKOKU WIRE  
LIMITED, 12/2, MATHURA ROAD, FARIDABAD.

Present :

Shri R. N. Roy, for the workmen.  
Shri K. P. Aggarwal, for the management.

#### ARBITRATION AWARD

This is an Arbitration agreement by which the Presiding Officer, Industrial Tribunal, Haryana, Faridabad was appointed as Arbitrator. The terms of arbitration agreement read that the Arbitrator shall make the award within a period of 12 months or within such further time as is extended by mutual agreement between the parties.

The period of 12 month has expired. The agreement is dated 9th March, 1977 and the period of arbitration expired on 9th March, 1978. The parties did not extend the period by mutual agreement. I, therefore, hold that my jurisdiction has come to an end and I have no jurisdiction now to arbitrate. The arbitration agreement has become null and void by lapse of time. This is the award.

The 17th March, 1978.

NATHU RAM SHARMA,  
Arbitrator and Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

N. 239, dated the 17th March, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 17th March, 1978.

NATHU RAM SHARMA,  
Arbitrator and Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 3617-3Lab-78/1746.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Oriental Industries, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL  
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 69 of 1977.

between

SHRI SHIV PARSHAD WORKMAN AND THE MANAGEMENT OF M/S ORIENTAL INDUSTRIES,  
MATHURA ROAD, FARIDABAD

Present :-

Shri H. S. Gill, for the workman.  
None, for the management.



## AWARD.

By order No. ID/FD/283-A-77/22409, dated 8th June, 1977, the Governor of Haryana referred the following dispute between the management of M/s. Oriental Industries, Mathura Road, Faridabad and its workman Shri Shiv Parshad to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :-

Whether the termination of services of Shri Shiv Parshad was justified and in order? If not, to what relief is he entitled?

On receipt of the order of references, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 9th September, 1977.

(1) Whether the workman concerned abandoned the job of his own?

(2) If issue No. 1 is not proved, whether the termination of the workman concerned is justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the management but the case was adjourned 2/3 times. Finally case was fixed for the evidence of the management on 14th February, 1978 but the representative for the management stated that he had no instructions from the management and withdraws himself from the reference. Prior to this the management had been granted two adjournments subject to payment of costs. The management did not pay costs also. Then the case was fixed for 1st March, 1978 for the *ex parte* evidence of the workman. The workman examined himself as his own witness who stated that he was employed by the management as helper at monthly wage of Rs. 150/- only which was less than the minimum wage prescribed by law. He then requested the management to fix him at Rs. 170/- P. M. He had written regarding this to the Deputy Labour Commissioner, Haryana, Chandigarh who checked and found that his wages were less than minimum wages and thereupon the management turned him out of the job being annoyed without serving him with any charge-sheet or notice.

I believe in the statement of the workman and I am satisfied that services of the workman concerned were terminated unjustifiably. I, therefore, give my award that the termination of services of the workman concerned was neither justified nor in order. He is entitled to reinstatement with continuity of service and with full back wages.

Dated the 14th March, 1978.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 241, dated the 17th March, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 17th March, 1978.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 3618-3Lab-78/1748.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Sudesh Silk Mills, Pvt. Ltd., 15/1 Mathura Road, Faridabad :-

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD.

Reference No: 112 of 1977

between

SHRI AMAR SINGH JHA WORKMAN AND THE MANAGEMENT OF M/S SUDESH SILK  
MILLS PRIVATE LIMITED, 15/1, MATHURA ROAD, FARIDABAD

Present :-

None for the workman.

Shri R. C. Sharma, for the management.

## AWARD

By order No. ID/FD/256-77/27762, dated 27th July, 1977, the Governor of Haryana, referred the following dispute between the management of M/s Sudesh Silk Mills Private Limited, 15/1, Mathura Road Faridabad, and its workman Shri Amar Singh Jha to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act 1947 :—

Whether the termination of services of Shri Amar Singh Jha of Barna was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. It is a case wherein the workman did not appear three times after service of notice. Then lastly on 25th January, 1978 *ex parte* proceedings were ordered against him but thereafter a telegram was received from the workman concerned praying for adjournment, the case was then again adjourned and notices were sent to him which had been served upon him but even then he did not appear on the date fixed inspite of the fact that the case was called thrice. Then the management examined Shri P. N. Seth their Factory Manager as M. W. 1 who stated that the workman was employed on 11th October, 1976. He was absent from 14th October, 1976 to 18th October, 1976. Then again he remained absent from 8th January, 1977 to 31st January, 1977. He had brought attendance register and produced an extract there from Exhibit M. 1. He further stated that the workman himself has abandoned his job and the management closed their case. I am satisfied with the *ex parte* evidence of the management. Moreover, the workman did not appear four times after service. I therefore give my award as follows:—

That the workman concerned abandoned his job of his own by remaining absent for about 23/24 days consecutively. He is not entitled to any relief.

NATHU RAM SHARMA.

Dated 14th March, 1978.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

— — —  
No. 242, dated 17th March, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated 17th March, 1978.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 3619-3Lab-78/1750.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Rubberways 13/3 Mile Mathura Road, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL,  
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 106 of 1976

between

SHRI MOHD. LIYAKAT, WORKMAN AND THE MANAGEMENT OF M/S RUBBERWAYS  
13/3 MILE MATHURA ROAD, FARIDABAD

Present.—

Shri Ram Murti Sharma, for the workman.

Shri R. C. Sharma, for the management.

## AWARD

By order No. ID/FD/525-C-76/21440, dated 23rd June, 1976, the Governor of Haryana, referred the following dispute between the management of M/s Rubberways, 13/3 Mile Mathura Road,

Fardidabad and its workman Shri Mohd. Liyakat, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Mohd. Liyakat was justified and in order ?  
If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 26th September, 1977.

- (1) Whether there was any previous reference involving the present dispute and that was dismissed ?
- (2) If issue No. 1 is proved, then whether the circumstances leading to dismissal of the previous reference is a bar to the present reference ?
- (3) Whether the termination of services of Shri Mohd. Liyakat was justified and in order ?  
If not, to what relief is he entitled ?
- (4) Whether the workman concerned left the services of the management of his own accord ?

At this stage a settlement was arrived at between the parties. The representative for the management stated that the management shall pay a sum of Rs 550 only to the workman concerned and thereupon the workman shall have no right to reinstatement or re-employment. The representative for the management agreed to this. I, therefore, give my award as follows:—

That the management is liable to pay a sum of Rs. 550/- to the workman concerned and thereupon the termination of services of the workman concerned shall be deemed justified and in order and the workman shall not be entitled to any relief including the relief of reinstatement or re-employment.

NATHU RAM SHARMA,

Dated the 14th March, 1978.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 243, dated the 17th March, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 17th March, 1978.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 3620-3Lab-78/1752.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Indian Aluminium Cables Ltd., 12/2 Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 101 of 1976

*between*

SHRI MAHADEV PARSHAD, WORKMAN AND THE MANAGEMENT OF M/S. INDIAN  
ALUMINIUM CABLES LIMITED, 12/2, MATHURA ROAD, FARIDABAD

*Present :—*

Shri Madhu Sudan Saran Cowshish and Shri Amar Singh, for workman.

Shri K. P. Aggarwal, for the management.

## AWARD

By order No. ID/FD/395-A-76/21293, dated 21st June, 1976, the Governor of Haryana, referred the following dispute between the management of M/s. Indian Aluminium Cables Limited, 12/2 Mathura Road, Faridabad and its workman Shri Mahadev Parshad, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Mahadev Parshad was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices, were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 3rd December, 1976.

- (1) Whether the termination of services or dismissal of the workman concerned Shri Mahadev Parshad was justified and in order? If not, to what relief is he entitled?
- (2) Whether the workman abandoned the services of the management of his own?

The case was set for the evidence of the management. The management examined Shri K. K. Dawani, their Commercial Officer as M.W. 1 who stated that the workman was granted leave,—*vide* his application. He applied for extension of leave which was not granted. He was asked to send medical certificate. The workman sent medical certificate of his own sickness but that was not accompanied by application for extension of leave. The workman again sent medical certificate, that was also not accompanied by application for extension. The management informed the workman that extension was not granted. Thereafter his name was struck off the rolls from 24th March, 1976. He produced a true extract from the relevant register. He further deposed that the workman attended the factory premises for the first time on 26th March, 1976 but he did not meet him on 26/27 and 30th March, 1976. He further deposed that the workman concerned made false entries in the visitors register to show that he attended the factory premises. The workman fabricated these entries with the connivance of some staff. In cross-examination he stated that he did not take any action against the persons who had connived with the workman and that visitor register remained on a table near the gates of the factory. The management also examined Shri P. N. Kapoor their Security Officer as M.W. 2, who also corroborated the statement of M.W. 1. The management then closed their case.

Then the case was set for the evidence of the workman who stated that when he reached his home on availing leave he found his wife sick and therefore he applied for extension of leave for 15 days. He further stated that he had applied for extension up to 20th March, 1976. When he reached the factory on 21st March, 1976 he was not allowed entry. He continued to attend the factory and he attended a fairwell party of the Manager on 24th March, 1976 and produced a photograph in which he appeared. In cross-examination he admitted that his application Exhibit M-2 was not accompanied by a medical certificate. He further stated that he did not receive any letter from the management asking him to send medical certificate. He admitted that his address given on Exhibit M-3 is correct. He further stated that extension of leave was applied for the sickness of his wife. He stated that Dr. Harpal Singh had treated him and he was admitted in the dispensary of Dr. Harpal Singh and hence he could not produce prescription slip. He did not purchase medicine from the market. On 18th February, 1976 his wife had recovered and then he fell sick and he had brought fit certificate when he came to join his duty but the management did not receive it. He had obtained that certificate at 10 A.M. on 20th March, 1976 and attended the factory at 8 A.M. on 21st March, 1976 and his village is at a distance of 500 kms. from Faridabad where he was sick. He further deposed that he had attended the factory on 21st March, 1976 although it was Sunday holiday but his weekly off was on Monday. He admitted that the factory has got printed pass book but when it is not available they issues passes also. On that day no officer was in the factory. He met his supervisor who told him to see the Security Officer. Some times the visitors sign the visitors slip, some times not. He could not tell as to how many times he went inside the factory to see some officers from 21st March to 31st March. On 26th March, 1976 he took two gate slips as he had come out of the factory after seeing the officer for the first time. He admitted that he had entered in the register the same time as was mentioned in the visitors slip. He denied that he made these false entries. He admitted that the entries made by him do not look proper seeing the former and latter entries in respect of time and date. The workman closed his case.

Then the case was fixed for arguments. The arguments were addressed at length. I have gone through the evidence of the parties oral as well as documentary and have heard their arguments.

The workman was granted 15 days leave from 20th January, 1976 to 3rd February, 1976 on the ground of holeless condition of his wife,—*vide* Exhibit M-1. Exhibit M-2 is an application from the workman for extension of his leave from 4th February, 1976 to 18th February, 1976 sent to the management by registered post. *Vide* Exhibit M-3 the management asked the workman to furnish medical certificate of his wife for their consideration by a registered letter. Exhibit M-5 is a medical certificate pertaining to the workman concerned for a period of 15 days from 19th February, 1976 to 4th March, 1976 together with its covering postal envelope. Exhibit M-6 is again a medical certificate pertaining to the workman concerned for a period from 5th March, 1976 to 19th March, 1976. It is dated 4th March, 1976. The management informed the workman,—*vide* Exhibit M-7 that extension was not granted to him on account of his wife, sickness without medical certificate and asked the workman to join his

duty immediately failing which the management shall involve the provision of clause 10 (IX) of their certified standing orders which provides that the workman shall be considered as having left his job of his own. This letter was sent to the workman,—vide registered letter, receipt whereof is Exhibit M-2. The management again sent another letter, dated 27th February, 1974/5th March, 1976 informed the workman that his request for extension of leave was not granted repeating the same that he shall be deemed as having left his service of his own accord,—vide a registered letter, postal receipt whereof is Exhibit M-10. Exhibit M-11 another letter of the management telling the workman that he is in the habit of being absent and his medical certificate without an application for extension of leave on that ground could not be considered. The management offered by this letter that if he did not resume his duty by 23rd March, 1976, his name shall be dropped from the muster roll under their certified standing orders. I have gone through the certified standing orders. Sub-clause 9 of clause 13 thereof provides that the workman shall be liable to lose his appointment if he did not return within 3 days of the expiry of the sanctioned leave and fails to explain to the satisfaction of the Manager, the reasons for his inability to return before the expiry of his leave. It further reads that if a workman fails to report for duty after 3 days of the expiry of the leave he shall be treated as having left the service of the company of his own accord with effect from the date on which he was to resume his duty and his services shall be treated as automatically terminated. I have also gone through the visitors register. The entry of the name of the workman on 21st March, 1976 seems to have been inserted improperly and lately, as the space between the above and below entry is much less. Similarly the entries relating to 22nd March, 1976 does not seem to be genuine as above it the time described against other entries is 11.40 11.45, 11.55 and the time described against the entry of the workman is shown as 11.30 A.M. It seems that this entry has been inserted in a blank space. The timing of all these entries suggest that this entry does not seem genuine. I do not attach any reliance on the entries relied on by the workman. Similar is the case of entry, dated 24th March, 1976. The pencil entry over written in ink and the time mentioned is 10 hours whereas the above entries described time as 10.35., 10.40 and 10.46. It is clear that those entries have been manipulated by the workman concerned in order to help his case. The joining of farewell party inside the factory does not help the workman concerned. When the workman applied for extension of leave,—vide his letter dated 2nd February, 1976, Exhibit M-2, he was asked to send medical certificate, that letter speaks that his wife had not recovered and, therefore, he required extension of leave. But the certificate produced by him from 19th February, 1976 to 19th March, 1976 pertains to the workman concerned and not his wife. The workman has not produced any medical certificate for the sickness of his wife from 4th February, 1976 to 18th February, 1976 which period remains uncovered by any medical certificate. The management persistently informed the workman that his request for extension was not granted,—vide their letters dated 24th February, 1976 and 27th February, 1976 and 13/14th March, 1976. These letters speak that in case he did not join his duty immediately, the provision of clause 13(IX) shall be invoked and he shall be treated as having left the service of his own. The management even asked the workman to resume his duty on 23rd March, 1976 by giving him another opportunity and if the workman did not resume his duty on 22nd/23rd March, 1976, the certified standing orders shall come into play but even then the workman did not resume his duty on 22nd/23rd March, 1976. The conduct of the workman is such that his case has fallen clearly under clause 13(IX) of the certified standing orders of the management. I, therefore, give my findings issue-wise.

#### Issue No. 1.

That it is not the management who terminated the services of the workman concerned or who dismissed him. I, therefore, decide this issue as follows :—

That it is not a case of termination or dismissal of the workman concerned by the management, hence the question of justifiability or being in order does not arise.

#### Issue No. 2.

From the above discussions I have reached the conclusions that according to clause 13(IX) of the certified standing Orders of the management, the workman has abandoned his services of his own accord by remaining absent for more than 8 days as he did not join duty in spite of clear information to him by the management that extension of leave was not granted to him. I, therefore, give by award as follows :—

That as per the certified standing orders of the management, the workman has left his services of his own accord and that it is not the management who have terminated the services of the workman concerned or who have dismissed the workman concerned. The workman is not entitled to any relief.

Dated the 16th March, 1978.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 244, dated the 17th March, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 17th March, 1978.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.